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C O N F I D E N T I A L SECTION 01 OF 04 ANKARA 000144

SIPDIS

E.O. 12958: DECL: 01/29/2019
TAGS: PGOV PHUM PREL OSCE TU
SUBJECT: ERGENEKON PROBE: SOME SMOKE, BUT LASTING IMPACT

REF: A. ANKARA 64
 1B. ANKARA 31
 1C. 08 ANKARA 375

Classified By: POL Counselor Daniel O'Grady for reasons 1.4(b,d)

11. (C) Summary: The widening scope of the Ergenekon investigation has divided Turkish society into two increasingly hardened camps: those who see the case as a courageous step to bring Turkish society under the rule of law, by uncovering and then holding accountable the gangs responsible for hundreds of unsolved mystery killings and disappearances; and those who see a politically manipulated investigation that targets only opponents of the ruling Justice and Development Party (AKP). The continuing progression of the investigation and trial, steps that would have been unthinkable just several years ago in Turkey, demonstrates a shift in balance of power away from an entrenched elite that includes the military, bureaucracy, and the Republican People's Party (CHP) to a body of elites that has newly emerged on the political scene. The case reflects the deep schisms in Turkish society, and therefore will continue to evoke visceral responses that are an outgrowth of

a larger debate over where the country is headed. Many Turks are quick to blame Ergenekon for every wound in the past, but we find the notion of such a vast conspiracy network highly implausible. Prosecutors seem to be overreaching as they try to connect ever-widening circles of defendants, some of whom appear directly culpable for violent crimes, but others who seem only marginally involved, or are simply strong advocates for secularism. Actual convictions may prove elusive, given the nature of the evidence. The trials promise to be unusually lengthy. AKP sees itself as the political beneficiary of the Ergenekon investigation, but over the long term Turkish society itself may be the real winner: the prosecutor's resolve in tackling this previously taboo topic introduces the concept of full accountability -- even in dark corners of the "deep state." End summary.

Investigation's Scope Widens

¶12. (U) The Ergenekon case, which began in June 2007 after police raided the home of a non-commissioned military officer in Istanbul and discovered 27 hand grenades of the same type used in attacks on "Cumhuriyet" newspaper's Istanbul office in 2006, has grown ever wider in scope. Prosecutors have worked with the Turkish National Police (TNP) to detain more than 100 journalists, writers, alleged gang leaders, and politicians in what has morphed into a case to root out and hold accountable members of an alleged ultra-nationalist gang named Ergenekon. The 2,500-page indictment filed by chief prosecutor Zekeriya Oz alleges an extensive criminal network sought to carry out numerous assassinations and other crimes. Although the indictment does not explicitly say so, may allege the evidence points to a plan by the criminal network to topple the AKP government by creating an environment of mayhem that would lead to a military coup.

¶13. (U) Turkish police on January 22 carried out the eleventh sweep, detaining 39 people from 13 cities, including Istanbul, Ankara, Antalya, Bursa, Hakkari, Eleziz, Igdır, and Hatay, and seizing 50,000 books and 200,000 documents. The detainees are alleged to be part of assassination teams directed by Ibrahim Sahin, former head of the police special operations unit who is currently under arrest in the case. Detainees included 17 police officers from a special operations unit, two non-commissioned military officers, three lieutenants, seven journalists, the leader of the Turkish Metal Worker's Union (a body that claims 300,000 members) and four unionists, the head of Ankara-based Eurasia TV, VERSO Polling company's owner Erhan Goksel, senior journalist Unal Inanc, and Sirinoglu Human Rights Association Head Savas Avci. Union leaders, the main opposition Republican People's Party (CHP) and detainees' relatives condemned the detentions as part of a campaign to eliminate AKP's opponents. Turkish Confederation of Labor Unions (Turk-Is) released a statement reading, "It is impossible to implicate any union in the Ergenekon case. The reason for the union's existence is democracy itself." Following the detentions, Prosecutor Turan Colakkadi told reporters that

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his office would complete a supplemental indictment by the end of January.

¶14. (C) The military seemingly has generally acquiesced in the probe, saying that it, more than any other institution in Turkey, has an interest in "making the investigation more clear." The military has cooperated with the civilian-led investigations, allowing searches on premises controlled by the military, and consenting to the arrest of active duty officers. Official military reactions against the Ergenekon investigation have been limited to expressing concern about the treatment of senior retired officers arrested in the case and the need to respect the rule of law and the rights of the accused as well as about how the case is covered by the media. Still, some of our contacts tell us that many

generals are seething and perceive this probe as a focused effort to diminish the military's stature. There are outward signs of this anger. For example, the military issued a sharply-worded statement following the suicide of a decorated retired colonel implicated in the investigations, comparing those passing judgment in the media on individual suspects before the formal judicial proceedings have concluded to "extrajudicial executions."

Views of Ergenekon Politicized

¶15. (U) A January 17-19 "A and G Company" poll that surveyed 2,407 people in 33 provinces reveals a sharp division in societal views about Ergenekon. The poll determined that 62 percent of those questioned believe an organization called Ergenekon exists, while 20 percent do not. The percentage of those who rejected the existence increased with education: 15 percent of primary school graduates did not believe Ergenekon exists; 23 percent of high school graduates did not; and 27 percent of university graduates did not. When asked their views of the aims of the investigation, 49 percent of respondents said they believe it aims to punish a criminal gang and coup plotters, while 22 percent agreed that it is an excuse used by the government to punish opposition and the military. When asked if the investigation is proceeding according to legal norms, 33 percent said yes; 27 percent said they believe illegal gangs within the state exist but that the investigation is targeting government opponents; 15 percent said the entire investigation is a government ploy.

¶16. (U) The poll demonstrated that Turks' views of the case line up according to political allegiances. According to the poll, half of respondents who are CHP supporters did not believe Ergenekon exists. Among AKP supporters, 75 percent believed the alleged gang exists, while 64 percent of Nationalist Action Party (MHP) supporters believed in Ergenekon's existence. Partisanship was also apparent in answers to the question of whether the investigation is proceeding in accordance with legal norms. Only 13 percent of CHP supporters believed this to be true, while the percentage increased to 18 percent among pro-Kurdish Democratic Society (DTP) supporters, 21 percent among MHP supporters, and 56 percent among AKP supporters. Among CHP supporters, 33 percent believed the investigation to be a government ploy, versus 2 percent for AKP supporters.

A Leap Forward in Transparency and Accountability

¶17. (C) Many liberal contacts hope that the case represents a "Clean Hands" process that will hold the military and traditional state elites accountable for their conduct. Human Rights Agenda Association President Orhan Kemal Cengiz, lead attorney for the families of three Christians murdered in Malatya in 2007, told us the investigation is a necessary first step to end the "tremendous culture of impunity in Turkey that has led to over 17,500 unsolved killings." Cengiz said criticisms of the use of excessive force in the investigation are beside the point, noting that Ergenekon opponents "never once criticized such tactics when they were used over the past several decades to detain Kurds, human rights activists, and other innocent citizens." Such claims by opponents of the case distract from the reality that the

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investigation has brought to light evidence that has made it impossible to deny the existence of "deep-state" involvement in criminal acts and "collapsed the old balance of power in Turkey" between the military, the government, and the traditional state elite, including the judiciary. Cengiz said that as the revelations of the Ergenekon investigation have come forth, the once-skeptical judges in the Malatya

murders trial (ref C) have been increasingly willing to allow Cengiz to pursue his theory that the Ergenekon network was responsible for the Malatya murders.

¶18. (C) Ankara University Law Professor Mithat Sancar told us that the Ergenekon investigation is the most important event in Turkey since the Turkish Republic was founded in 1923. Sancar said he does not believe that there is an overarching criminal network as such, but estimates that 80 percent of detainees are guilty of some serious crime. He disagrees that the prosecution team is under AKP's influence. Chief prosecutor Oz is a well-respected professional and understands that it would be foolish to give too much credence to the views of a political party that could be voted out of office, he said. Sancar believes that the investigation will last at least two years and will uncover only the "tip of the iceberg" because "Turkey's judicial system is not equipped to process such a large and complex case." He told us that the impact of the case is not tied to its length or conclusion, noting that the investigation had already upended the traditional culture of impunity for certain segments of Turkish society, including the military.

¶19. (C) Ayhan Bilgen, former President of human rights NGO Mazlum-Der, told us the military's apparent acquiescence thus far is in itself a sea change. Bilgen said that the past investigations of Susurluk and Semdinli, two other cases where deep-state involvement was indicated, had been quashed by the military without legal consequences for any involved. If Ergenekon had begun just 5 years ago it too would have been stopped in its tracks, he said. AKP's triumph over the military and the traditional elite in the controversy regarding the 2007 election of Abdullah Gul to the Presidency and later in the 2008 AKP closure case had significantly weakened the military's hand. The military will not intervene lest it draw fierce public response, according to Bilgen. (Comment: Retired military judge Sadi Cayci told us the Turkish military firmly believes Turkey's secular identity is sacred and must be protected at all costs, and that there are active duty and retired officers who might take this view to the extreme. He said Basbug's challenge is to rein in extremists while pushing for an investigation that respects the rule of law and is not used as a political tool.

End comment.)

----- Politicization Jeopardizes Ability to Bring Change -----

¶10. (C) Middle East Technical University (METU) Dean of Graduate Programs Sencer Ayata, one of Turkey's most respected Social Democrats, doubts the case will lead to the lasting effect for which its proponents hope. He told us that the ever-widening scope of the investigation and the use of questionable prosecutorial tactics undermines the credibility of the investigation. The prosecutors had rounded up a diverse array of figures, many of whom are traditional enemies, whose only common element is their opposition to AKP: union leaders and Alevis on the left, right-wing ultranationalists, and marginal figures such as a transvestite television star with no connection to politics. Lumping together these diverse figures into one massive case makes it appear to be deeply politicized, and it has therefore lost credibility, according to Ayata. MHP MP Faruk Bal told us that it is unlikely that the criminals who worked for Ergenekon will be brought to justice because the investigation has turned into "a farce." Prime Minister Erdogan and CHP Chairman Baykal have taken such clear sides on the case that regardless of the verdict, the popular perception will be that it will have been political.

¶11. (C) METU professor Aykan Erdemir told us that the tactic of arresting even marginal figures, such as a transvestite actor, often in the middle of the night, had scared people into silence. In an atmosphere "eerily reminiscent of the

post-1980 coup," parents are telling their kids not to talk about politics, and academics are scared to mention anything about politics when talking on the phone, according to Aydemir. Such an environment of fear had significantly eroded trust in Turkey's system of justice. "The tragedy," in his view, "is that the politicization will cause the perverse result of leading to the collapse of the case without the guilty having been brought to justice."

¶12. (C) "Hurriyet" columnist Yusuf Kanli believes the case has become politicized to an extent that it will not be able to increase respect for the rule of law. He wrote January 19 that the investigation's disregard for traditional pillars of justice -- due process, protection of individual rights, and the right to a fair trial -- has undermined its legitimacy. The prosecution's tendency to detain people without a court warrant and then "summarily execute them on the front pages of the AKP-controlled media" was legitimizing the "gross violations" of due process that have plagued Turkey for decades.

Comment: A Pivotal Event for Turkey

¶13. (C) Although the investigation has already proceeded much further in time and scope than many believed possible when it began, many obstacles stand in the way of the prosecutor's ability to see it through. Not least is the opposition he will face from the judicial establishment itself.

Foreshadowing this tension, following a police search of the house of the honorary president of the Court of Appeals Sabih Kanadoglu, Union of Judges and Prosecutors (Yarsav) head Omer Faruk Eminagaoglu called a January 23 press conference to criticize the investigation as politically manipulated and to reprimand Turkish police for "seeking murderers in the houses of judges and prosecutors." Eminagaoglu criticized Justice Minister Mehmet Ali Sahin for siding with intelligence organizations instead of upholding the law, and said the investigatory tactics were turning Turkey into a "police state." Many predict that one of the coming prosecutorial police sweeps will occur shortly before March 29 local elections and focus on politicians from the mainstream opposition parties -- CHP, MHP, Democratic Party (DP) and Motherland Party (ANAP). If true, this is likely to bring increasing protests that the investigation is less a push for transparency than a witch hunt against AKP enemies. AKP opponents will continue to point out that AKP refuses to lift parliamentary immunity and is less than fully engaged in urging investigations into credible allegations of AKP-linked corruption, such as the Deniz Feneri (Lighthouse) scandal.

¶14. (C) Irrespective of the length of the case or its ultimate conclusion, the fact that the case has proceeded so far already -- 8 months, a 2,500-page indictment, and over 200 people detained, including active duty and senior retired military officers, active police officers, union leaders -- demonstrates that the balance of power in Turkey has already swung away from an entrenched elite composed of the military, bureaucracy, and CHP to a body of elites that has emerged on the political scene in the past decade. The prosecution's ability to detain such noteworthy figures and delve into some of Turkey's dark secrets has sent a message to the public and the old guard that illegal manipulation of politics is no longer acceptable in Turkey, and portends the end of Turks' once-sacred belief that the military stands as the primary protector and guardian of the Republic. The progression of this sometimes disorderly and confusing case will bring more visceral reactions and likely further political polarization.

These are a natural outgrowth of a larger debate over where the country is headed, as democratic reforms related to Turkey's European Union accession are forcing Turks to grapple with the meaning of secularism and nationalism, as well as darker parts of Turkish history. But the prosecutor's willingness to tackle this previously taboo topic, and the debate Ergenkon has engendered, gives evidence of a maturing Turkish democracy.

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Jeffrey